IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 406 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? :

CHAVDA KHIMA NAGA

Versus

AHER NAGA NATHU

Appearance:

MR PM THAKKAR for Petitioner

(MR GR UDHWANI) for Respondent No. 1

PUBLIC PROSECUTOR for Respondent No. 8

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 30/06/2000

ORAL JUDGEMENT

Heard Shri H.N. Joshi the learned advocate for and on behalf of Mr P.M. Thakkar, the learned advocate for the Revision-Petitioner. By filing this Criminal

Revision Application under Section 401 of the Criminal Procedure Code, the Revision-Petitioner who was the original complainant has challenged the correctness, legality and propriety of the judgment dated 8.9.1989 rendered by the learned Judge of the Sessions Court as well as designated Court, Jamnagar, rendered in Sessions Case No.6 of 1989. In the cause title of this Revision-Petition the Revision-Petitioners have mentioned only Sections, namely, 302 read with Section 34, 143, 147 and 148 of the Indian Penal Code for which the learned Sessions Judge who is also a Judge of the Designated Court acquitted the accused in that case on 8.9.1989. On reading that judgement it is clear that judgement was rendered by not the Sessions Judge but by learned Judge in his dual capacity as Sessions Judge and also a Judge of the Designated Court established under Terrorist and Disruptive Activities (Prevention) Act, 1987 (in short, TADA Act) and by that judgement, the learned Judge of the Designated Court acquitted the accused for the offences punishable u/s 143, 147, 148 and 302 of IPC read with Section 149 and Section 34 of the IPC and also for an offence punishable under Section 5 of the TADA Act.

In view of Section 19 of the TADA Act one can prefer an appeal against any judgement sentence or order not being an interlocutory order of the Designated Court straightway to the Hon'ble Supreme Court both on facts and on law. Here in this case the original complainant has challenged the judgement rendered by the learned Judge of the Designated Court. The opening words of subsection (1) of Section 19 of the TADA Act namely, "Notwithstanding anything contained in the Code" clearly suggest that no Revision can lie u/s 401 of Criminal Procedure Code. The complainant ought to have filed an appeal against the judgement rendered by the learned Judge of the Designated Court. Sub-section (2) of Section 19 further clarifies that there cannot be any appeal or revision which can lie to any Court from any judgement, sentence or order including interlocutory orders of the Designated Court and therefore no Revision can lie to this Court against the judgment rendered by the Judge of the Designated Court.

It appears that in cause title of the Revision-Petition, the Revision-Petitioner preferred not to mention Section 5 of the TADA Act for the reasons best known to him. Had he mentioned Section 5 of the TADA Act in the cause title, perhaps, at the admission stage this Revision-Petition would not have been admitted by this Court.

In view of the discussion made hereinabove, this Revision Petition cannot lie against the judgement rendered by the learned Judge of the Designated Court under the TADA Act to this Court. The petitioner may prefer appropriate appeal or revision to an appropriate forum. With this order, this Criminal Revision Application stands dismissed for want of jurisdiction. Rule is discharged.

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(mohd)